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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 ) CC Docket No. 94-1  
Price Cap Performance Review )  
for Local Exchange Carriers )

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**OPPOSITION OF SPRINT CORPORATION TO  
PETITIONS FOR RECONSIDERATION**

Sprint Corporation ("Sprint"), on behalf of Sprint Communications Company, L.P. and the Sprint LECs<sup>1</sup>, hereby respectfully opposes the petitions for reconsideration of the First Report and Order<sup>2</sup> filed by AT&T Corporation ("AT&T"), MCI Telecommunications Corporation ("MCI") and Ad Hoc Telecommunications Users Committee ("Ad Hoc") on May 19, 1995.

Sprint asserts that AT&T, MCI and Ad Hoc have not shown the complained-about decisions of the Commission in the First Report and Order to be arbitrary and capricious and that their proposed changes to the interim price cap plan are neither warranted nor in the public interest. Thus, the petitions for reconsideration of AT&T, MCI and Ad Hoc should be rejected.

**I. THE COMMISSION HAS AN ADEQUATE RECORD TO JUSTIFY ITS  
INTERIM 4.0% BASE PRODUCTIVITY FACTOR AND ITS THREE  
FACTOR SHARING RANGE OPTIONS**

The record is resplendent with data and argument supporting various productivity factors. The Commission summarized much of the record in its First Report and Order<sup>3</sup> and, after analysis

<sup>1</sup> The Sprint LECs are the United and Central Telephone Companies.

<sup>2</sup> *Price Cap Performance for Local Exchange Carriers*, First Report and Order, CC Docket No. 94-1, FCC 95-132, released April 7, 1995 ("First Report and Order").

<sup>3</sup> *Id.* at ¶¶ 99-165 noting evidence and argument on the appropriate X factor by USTA, Southwestern Bell, Bell Atlantic, NYNEX, BellSouth, GTE, Pacific Bell, US West, Ad Hoc, AT&T, MCI and studies by AT&T, Laurits R. Christensen et al. and National Economic Research Associates, Inc.

of significant amounts of evidence and conflicting argument, weighed the merits of the evidence and argument in arriving at its interim decision. Clearly the Commission has ample evidence to support its decision, and the decision cannot be correctly characterized as arbitrary and capricious.

AT&T, MCI and Ad Hoc press the same position on X factors that they pressed in their initial case in this proceeding. The Commission fully considered their arguments and evidence and rejected their position for at least the interim period. The petitions for reconsideration by AT&T, MCI and Ad Hoc add nothing of significance to the X factor deliberation that has not already been considered<sup>4</sup>. The AT&T, MCI and Ad Hoc arguments were rejected before and should be rejected once again.

AT&T<sup>5</sup> and MCI<sup>6</sup> each claim that the fact that most LECs elected a 5.3% productivity option, shows that LECs can easily meet that productivity goal and that this is evidence that the X factor is too low. This is an unreasonable leap to a conclusion not supported by the evidence. While many LECs have opted for the 5.3% productivity option, achievement of this option will not come easily. Sprint specifically addressed the challenge that continued productivity gains will present to LECs in its earlier comments in this proceeding. Continued productivity gains of this magnitude are expected to be difficult targets to achieve as Sprint has previously demonstrated.<sup>7</sup> Clearly, the unsupported conclusion of AT&T and MCI may not be relied upon and is not

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<sup>4</sup> MCI at 5 suggests that the Commission should consider updates to and use of short term productivity factors. Ad Hoc at 3 complains that updated productivity data were used. AT&T at 3 claims that the Commission has not adjusted the X factor sufficiently and that the AT&T methodology productivity calculation methodology should be adopted. Each of these complaints is a rehash of ground already covered.

<sup>5</sup> AT&T Petition at 4-5.

<sup>6</sup> MCI Petition at 5.

<sup>7</sup> See Sprint Comments at 2-5 (May 9, 1994) and Sprint Reply Comments at 11-14.

sufficient reason to justify reconsideration of the X factor thoroughly considered previously by the Commission.

Ad Hoc urges the Commission to disregard data updates provided by USTA.<sup>8</sup>

Ad Hoc, on the one hand, claims that the Commission did not adequately explain the method used in deriving the X factor while, on the other, criticizes the Commission for using USTA updates in X factor development.<sup>9</sup> Indeed, Ad Hoc notes that the Commission summarized Ad Hoc's concerns with the USTA updates.<sup>10</sup> Thus, it appears to Sprint that Ad Hoc is schizophrenic in its complaints concerning the USTA updates and their use in X factor development. While Ad Hoc may not like the ultimate independent decision of the Commission, a decision based on both USTA updates and Ad Hoc's opinion of those updates, there is clearly no procedural error by the Commission in this regard. The base X factor decision of the Commission should stand.

The Commission fully explained the development of its base 4.0% X factor and options of 4.7% and 5.3% in the First Report and Order<sup>11</sup>. There is no procedural or evidentiary deficiency in the Commission's decision to establish multiple productivity options associated with different sharing commitments. Indeed, the Commission correctly recognized the variability among LECs in their ability to achieve different levels of productivity gains. The Commission included appropriate recognition of this fact by adopting productivity options of 4.0%, 4.7% and the sharing ranges associated with these productivity factors, the higher 5.3% factor, its no sharing requirement. The LECs were correctly given freedom to choose the productivity factor that most closely resembles their internal achievable productivity. This plan incents LECs to vigorously

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<sup>8</sup> Ad Hoc Petition at 3.

<sup>9</sup> *Id.* at 2-3.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> See First Report and Order ¶¶ 212-215

strive for increased efficiency. Further, Sprint believes there is no public interest reason to reconsider this reasonable decision.

**II. ELIMINATION OF SHARING IN THE PRICE CAP CONTEXT DOES NOT RESULT IN UNREASONABLE PRICES TO CUSTOMERS AND PRODUCES PUBLIC INTEREST BENEFITS AS THE LECS ARE SUBJECT TO COMPETITIVE MARKET INCENTIVES**

Ad Hoc and MCI complain that the Commission failed to adequately explain its decision to eliminate sharing obligations when a price cap LEC adopts the 5.3% X factor.<sup>12</sup> This claim must be rejected. The Commission explained that removal of sharing obligations promotes incentives for greater efficiency leading to lower prices to customers.<sup>13</sup> The Commission has correctly concluded that sharing is not required by Section 201 of the Communications Act, 47 U.S.C. § 201.<sup>14</sup> Simply stated, Section 201 requires only that rates be just and reasonable and does not dictate any particular earnings methodology to be used by the Commission in achieving that goal. Because rate of return regulation is not a statutory requirement, a determination by the Commission, based on substantial evidence and reasonable deliberation, to adopt price caps without sharing but with an increased X factor commitment is not deficient-either procedurally or in public policy deficient.

Sprint agrees with the Commission that price cap regulation, including no sharing zones as a move toward pure price cap regulation, creates “profit incentives similar to those in the fully competitive markets and generates positive motivations for efficient rates, innovation,

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<sup>12</sup> Ad Hoc at 4 and MCI at 10.

<sup>13</sup> First Report and Order ¶ 191. *See also* ¶ 188 where the Commission notes that a no sharing option benefits the public by eliminating “the possibility that a LEC that achieved high interstate earnings would have no incentives to increase efficiency.”

<sup>14</sup> *Id.* at ¶ 225.

productivity growth and accurate cost allocation, while reducing regulatory burdens.”<sup>15</sup> Sprint believes that the move toward regulation that ensures reasonable rates through the use of price cap competitive market incentives is appropriate and fully justified.

Sprint asserts that the Commission has responsibly exercised its authority in adoption of a no sharing price cap option and urges that the Commission deny reconsideration of this essential element of the Commission’s interim price cap plan.

**III. PRICE CAP LECs THAT ELECTED THE 5.3% PRODUCTIVITY FACTOR ARE NOT SUBJECT TO A SHARING OBLIGATION FOR SEVEN MONTHS OF 1995 AS AT&T CLAIMS.**

AT&T asks the Commission to “clarify that LECs that have elected the 5.3 percent optional productivity offset remain subject to a sharing obligation with respect to the period January 1 through July 31, 1995.”<sup>16</sup> AT&T apparently claims that it should receive seven months of sharing for 1995.

In the 1995 annual access filing, the Commission required the LECs to make an adjustment to PCIs to account for the one month delay in the effective date of the tariffs.<sup>17</sup>

This adjustment, in effect, causes the same result as if the tariffs had been made effective on July 1, 1995. Therefore, the sharing obligation is only required for the first half of 1995.<sup>18</sup>

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<sup>15</sup> *Id.* at ¶ 28.

<sup>16</sup> AT&T at ii.

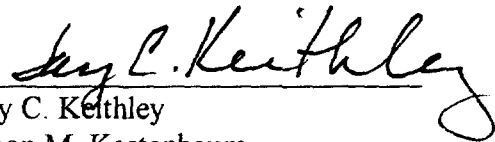
<sup>17</sup> In the Matter of 1995 Annual Access Tariffs, DA 95-823, Revisions to Tariff Review Plan for Price Cap Companies and Order, released April 14, 1995 at ¶¶ 19-21.

<sup>18</sup> A sharing question does remain, however. With a six month sharing requirement, it is unclear whether the sharing should be based on six months calendar actual results or on full year 1995 results divided by two.

#### IV. CONCLUSION

Sprint respectfully recommends, as explained above, that the petitions for reconsideration of Ad Hoc, AT&T and MCI be rejected and the First Report and Order stand as issued.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jay C. Keithley", is written over a horizontal line.

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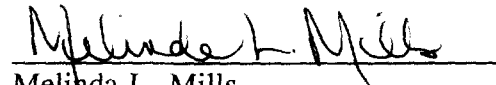
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June 29, 1995

## CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 29th day of June, 1995, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Opposition of Sprint Corporation to Petitions for Reconsideration" in the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.

  
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